

TEXT OF AMENDMENTS TO HOUSE BILL 4687

AMENDMENT NO. 1

Representative Straus of Mattapoisett moves to amend H 4687 (as redrafted) by striking “non-” in Section 2 of the bill (first sentence of new Section 18(d) of Chapter 25A)

AMENDMENT NO. 2

Representative Straus of Mattapoisett moves to amend H 4687 (as redrafted) by adding the following to Section 14:

“Any land that is under protection of Article XCVII of the Amendments to the Constitution of the Commonwealth as of January 1, 2010, shall, notwithstanding any subsequent change in status under said Article XCVII, remain subject to the review and permitting requirements found in Sections 61 to 62H, inclusive of Chapter 30; Section 40 of Chapter 131; and Sections 1 to 6, inclusive, of Chapter 131A.”

AMENDMENT NO. 3

Representative Straus of Mattapoisett moves to amend H 4687 (as redrafted) in Section 2 by striking new Section 18(l) of Chapter 25A and replacing with the following:

“The regulations promulgated pursuant to section 17 shall include clear and concise application requirements, including but not limited to, pre-application survey requirements developed by the division in consultation with the department of fish and game and the department of environmental protection, and may provide for pre-application consultation and site visits. No application shall be considered complete until surveys, if required, are determined by the department of fish and game or the department of environmental protection to be complete. Sufficient data shall be required from the applicant by these regulations to enable the division to determine whether the facility meets the standards established under section 17 and if it does not, whether it meets the standards set forth in subsection (g).

AMENDMENT NO. 4

Representative Straus of Mattapoisett moves to amend H 4687 (as redrafted) by inserting “not” after “shall” in Section 4 of the bill (last sentence of new Section 4(e) of Chapter 25D)

AMENDMENT NO. 5

Representative Straus of Mattapoisett moves to amend H 4687 (as redrafted) by inserting at the end of Section 4 of the bill

“The division of green communities, the wind energy permitting board issuing the permit or municipality in which a wind energy project is to be developed may move to revoke any permit or authorization given to a wind energy facility under this chapter if (i) the person or entity holding the permit fails to perform as prescribed by the permit, (ii) the person or entity holding the permit seeks substantial changes to the permit, or (iii) the person or entity holding the permit fails to make any initial performance under the permit for 180 days.”

AMENDMENT NO. 6

Mr. Kane of Holyoke moves to amend the bill by adding the following section.

Section 11F of Chapter 25A of the Massachusetts General Laws is hereby amended by adding after the following the words in paragraph (c): “impacted watershed as determined by the department in consultation with relevant state and federal agencies having oversight and jurisdiction over hydropower facilities”, the following:

("Environmental Standards"), and in any case in which pursuant to action initiated with or by the Federal Energy Regulatory Commission (FERC) after January 1, 1992 the FERV either reviewed and approved increased capacity or efficiency at an existing facility, or issued an order with respect to increased capacity or efficiency improvements to revise the authorized installed capacity at an existing facility, where the operation or such increased capacity or efficiency does not exceed the maximum discharged of the original turbine or turbines, then such increased capacity or efficiency at each such existing facility shall be deemed to have satisfied the Environmental Standards, defined above, and except as limited by the following subsection (6) (ii) shall be certified as a Class 1 renewable energy generating source, without further review;

AMENDMENT NO. 7

Representative Cantwell of Marshfield moves to amend House, No. 4687, in SECTION 6, line 442, after the words "governmental entity" by adding the following:-

"Hydrokinetic net metering facility," a facility for the production of electrical energy less than 2MW that uses: (a) waves, tides, and currents in oceans, estuaries, and tidal areas; (b) free-flowing water in rivers; (c) free-flowing water in man-made channels; or (d) differentials in ocean temperature, called ocean thermal energy conversion to generate electricity and is interconnected to a distribution company.

AMENDMENT NO. 8

Representative Cantwell of Marshfield moves to amend House No. 4687 by striking out SECTION 5 and inserting in place thereof the following:-

Section 138 of chapter 164 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out in lines 39, 40, 41, 57, 58, and 59, each time they appear, the words "net metering facility owned and operated by a customer which is a municipality or other governmental entity," and inserting in place thereof the following words:- "Net metering facility of a municipality or other governmental entity"; and in section 138 of chapter 164, striking out in line 21, the words "solar or wind" and inserting in place thereof the words "solar, wind, or hydrokinetic"; and in section 138 of chapter 164, striking out in lines 37 and 55, the words "or wind net metering facility" and inserting in place thereof the words " , wind net metering facility, or hydrokinetic net metering facility"

AMENDMENT NO. 9

Ms. Provost of Somerville moves to amendment H.4687 by striking all language following the enacting clause and inserting thereof the following:

SECTION 1. This act shall be construed in a manner to achieve its public purposes, which are to encourage the development of clean, renewable, electric generating plants and ancillary facilities powered by wind, ensure that such facilities are sited in appropriate locations based on clear, predictable and protective environmental, cultural and historic resource standards and streamline the permitting of such facilities at the state and local level and reduce delays associated with appeals of such permits.

SECTION 2. Section 10 of chapter 25A of the General Laws, as amended by section 22 of chapter 169 of the Acts of 2008, is hereby amended by adding the following subsection:-

(g) The department shall have a full-time employee who shall work within the division and collaborate with regional planning authorities to provide technical assistance to municipalities with respect to the siting of wind energy facilities.

SECTION 5. The General Laws are hereby amended by inserting after Chapter 40S the following

chapter:-

Chapter 40T: Wind Energy Permitting

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise have the following meanings:-

“Facility”, a wind energy facility.

“Local boards”, boards, commissions, officials or other municipal agencies or authorities who would otherwise have jurisdiction over any portion or all of the siting of a proposed facility.

“Interested Party”, an abutter; abutting municipality; a lawfully established trust, corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust or any other legal entity organized for profit or charitable purposes who is substantially and specifically affected by a proposed facility; or any group consisting of not fewer than 10 residents of the municipality in which the facility is proposed.

“Regional planning agency”, a regional planning district established pursuant to chapter 40B, the cape cod commission established pursuant to section 18 of chapter 716 of the acts of 1989 as amended or the martha’s vineyard commission established pursuant to chapter 831 of the acts of 1977, within such district or commission area or any other regional planning district hereafter established by the general court.

“Wind energy facility”, a facility including blades, turbines, towers, supports, foundations and any ancillary facilities such as roadways, transmission or distribution lines, substations and any other buildings, structures or equipment whose primary purpose is to support the generation and delivery of electricity of at least 2 megawatts powered by wind; provided, however, that wind energy facility shall not include structures or buildings whose primary purpose is unrelated to the generation and delivery of electricity powered by wind.

“Wind energy permitting board”, municipal board appointed under section 3 or if no board has been appointed, the planning board in the city or town of the proposed facility.

Section 2. The department of energy resources, in consultation with the Massachusetts Municipal Association and applicable regional planning authorities, shall determine which municipalities in the commonwealth contain significant wind resource areas; provided, however, that the department shall promulgate through regulation criteria for such determination; provided, further, that prior to a final determination, the department shall hold at least 1 public hearing in the region containing the relevant municipality and offer a period for public comment. A municipality with significant wind resource areas shall establish a wind energy permitting board to conduct local permitting of a wind energy facility, within 30 days of receipt of a letter of intent from an applicant seeking to file an application under this chapter. In all other municipalities, the municipality may establish a wind energy permitting board.

Section 3. In the case of towns, the board of selectmen, and in the case of cities, the mayor, shall establish and appoint the wind energy permitting board, to be composed of either 3 or 5 members, at the discretion of the board of selectmen or mayor. A 3 member board shall consist of 1 representative from the conservation commission, 1 member from the zoning board of appeals, and 1 member from the planning board. A 5 member board shall consist of 2 members of the conservation commission, 1 member from the zoning board of appeals and 2 members from the planning board. The board of selectmen or mayor shall appoint 1 member of the board to be the chairman. If the board of selectmen or mayor determines that it is infeasible to establish a wind energy permitting board, the planning board

shall serve as the wind energy permitting board. In such instances, the planning board shall take actions to maximize the opportunity for input from other municipal boards, and shall at a minimum ensure that the conservation commission and zoning board of appeals are provided with copies of the application and notices of all public hearings relating to the application.

Section 4. (a) A person who proposes to construct a wind energy facility with a capacity of at least 2 megawatts may elect to follow the procedure established by this chapter.

(b) A proposal to develop a wind energy facility that complies with the standards established under section 69V of chapter 164 shall be eligible for the fast-track permitting set forth in this section and section 69W of chapter 164.

(c) The project proponent shall file an application with the wind energy permitting board and the town or city clerk in lieu of separate applications to the local boards. The proponent shall also file the application with the town or city clerk of any abutting municipality. The application shall identify all provisions of local laws or regulations from which a waiver is sought. Within 30 days of receipt, the chairman of the wind energy permitting board, or the chairman's designee, shall determine whether the application is complete and inform the proponent of that decision. If the application is incomplete, the proponent shall be allowed 30 days or such longer time as may be mutually agreed upon to complete the application. After the expiration of this period, the proponent may elect to go forward with the information provided, and the procedures and timelines in this section shall apply.

(d) The wind energy permitting board shall immediately notify each such local board, as applicable, of the filing of such application by sending a copy thereof to such local boards for their recommendations and shall, within 60 days of the board's determination that an application is complete or the expiration of the additional information period described in subsection (c), and in compliance with the notice and publication provisions of section 11 of chapter 40A, hold a public hearing and a written public comment period of not less than 45 days on the application. The wind energy permitting board shall request the recommendations of the local boards as are deemed necessary or helpful in making its decision upon such application and shall have the same power to issue a permit or other approval as any local board or official who would otherwise act with respect to such application, including, but not limited, to the power to attach conditions to said permit or approval as are consistent with this section and all other laws and regulations.

(e) The wind energy permitting board, in making its decision on the application, shall apply all applicable local by-laws and ordinances, including any by-laws regulating construction in and around, and the disturbance of, wetlands and other environmentally sensitive areas, and shall take into consideration the recommendations of the local boards and shall have the authority to assess fees to retain consultants under section 53G of chapter 44. The board shall have the authority to waive zoning and nonzoning requirements of the municipality's local laws, regulations, policies or other regulatory requirements.

(f) The wind energy permitting board shall file with the city or town clerk a written decision, based upon a majority vote of the board, within 120 days from the filing of the application, unless the time period is extended by mutual agreement by the board and the applicant, and the agreement is filed with the city or town clerk prior to the expiration of the 120 day period. Failure to file a written decision or extension within the 120 day period shall result in a constructive approval of the application, unless a municipal board has made a timely referral of an application to a regional planning agency.

(g) A wind energy facility that does not comply with the standards established under section 69V of chapter 164 shall be governed by subsections (a) through (f) of this section, except that the deadline for a decision shall be 180 days. If the applicant states that the project complies with the standards, but the wind energy permitting board determines through a vote or interim written decision within the 120 day period that the application does not comply with the standards, the deadline for decision shall be extended so that the deadline is 180 days from the filing of the application unless a municipal board has made a timely referral of an application to a regional planning agency.

(h) The wind energy permitting board is authorized to assess a community mitigation fee upon the applicant, which shall not exceed a cap established by the department of energy resources through

regulations. The cap shall be set so as to ensure that community mitigation fees do not render the project economically non-viable.

(i) The applicant must offer the host municipality or its designee the option of entering into a legally enforceable purchase and sale agreement for not more than 10 per cent of the electricity generated on site for use by the host municipality or its designee; provided, however, that the wind energy permitting board may accept other forms of mitigation in lieu thereof, including, but not limited to, a purchase and sale agreement for electricity between the applicant and a municipality, a county, a regional planning agency or other regional governmental entity, a municipal electric cooperative or a municipal aggregator of energy. The host municipality is also authorized to enter into legally enforceable agreements with the applicant for additional mitigation measures.

(j) Notwithstanding any general or special law to the contrary, a municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis whose applications have been approved by a host municipality's wind energy permitting board under this chapter, in which the wind energy permitting board has issued an approval under this chapter shall be deemed to have met the green community eligibility requirements set forth in subsections (2) and (3) of section 10(c) of chapter 25A, and if the municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis seeks a waiver of any of the other eligibility requirements under section 10(c) of chapter 25A, shall be entitled to a finding that the municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis has committed to alternative measures that advance the purposes of the green communities program as effectively as adherence to the requirements.

(k) If a project proponent proposes a single wind energy facility in more than 1 municipality, the wind energy permitting boards, or planning boards, if applicable, may hold joint hearings in 1 or more municipalities.

(l) In areas where regional planning agencies have regulatory authority, a local wind energy permitting board or planning board shall refer an application to the regional planning agency in accordance with the special act establishing the regional planning agency. Notwithstanding any general or special law to the contrary, prior to the regional planning agency's final determination on the application, the local wind energy permitting board may review and hold public hearings and meetings on the application; provided, however, that no final determination shall be made until the regional planning agency has issued an approval or approval with conditions. Notwithstanding any general or special law to the contrary, in areas where regional planning agencies have regulatory authority, a wind energy permitting board and regional planning agency may hold joint hearings concerning a proposed facility so that both boards may review a project simultaneously. A wind energy permitting board shall file its written decision with the city or town clerk within 60 days of the date on which a regional planning agency issues its final decision of approval or approval with conditions. Failure of the wind energy permitting board to file a written decision or an agreed upon extension within the 60 day period shall result in a constructive approval of the application by the wind energy permitting board. If a regional planning agency denies a development of regional impact permit to a proposed wind energy facility, the wind energy permitting board shall not issue any permits for such a facility and no constructive approval shall result.

(m) (i) An interested party who is substantially and specifically aggrieved by a decision of the wind energy permitting board or a regional planning agency granting a permit or permit with conditions to the applicant, or constructively approving such a permit may appeal the decision to the energy facilities siting board and this appeal shall be the exclusive means of review of such decisions of a wind energy permitting board or a regional planning agency. The appeal shall be filed with the energy facilities siting board no later than 30 days after the wind energy permitting board's decision is filed with the city or town clerk or rendered by a regional planning agency, and shall be governed by section 69W of chapter 164.

(ii) An appeal of a decision of the wind energy permitting board denying a permit or granting a permit with conditions, brought by the applicant or by any other proponent of a wind energy facility shall be filed with superior court or the permit session of the land court under section 3A of chapter 185 within 30 days of the filing of the decision with the city or town clerk and this appeal shall be the exclusive means of review of such decisions of a wind energy permitting board. The court shall hear all evidence pertinent

to the authority of the wind energy permitting board and determine the facts, and, upon the facts so determined, annul such decision if found to exceed the authority of the wind energy permitting board or make such other decree as justice and equity may require. An appeal brought by the applicant or by any other proponent of a wind energy facility of a decision of a regional planning agency denying a permit or granting a permit with conditions shall be governed by the enabling statute of the applicable regional planning agency and this appeal shall be the exclusive means of review of such decisions of a regional planning agency.

SECTION 6. Section 69H of chapter 164 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words “the commissioner of the department of environmental protection” the following words:- , the commissioner of the department of fish and game.

SECTION 7. Said section 69H of said chapter 164, as so appearing, is hereby further amended in line 20 by striking out the figure “3” and inserting in place thereof the following figure:- 4.

SECTION 8. Said section 69H of said chapter 164, as so appearing, is hereby further amended by inserting after the words “labor issues” the following words:- , 1 of whom shall be a municipal official with experience in land use planning.

SECTION 9. Chapter 164 of the General Laws, as so appearing, is hereby amended by inserting after section 69S the following 5 sections:-

Section 69T. As used in section 69 U to 69 X, inclusive, the following words and terms shall, unless the context clearly requires otherwise have the following meanings:—

“Facility”, a wind energy facility.

“Interested Party”, an abutter; abutting municipality; lawfully established trust, corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust or any other legal entity organized for profit or charitable purposes which is substantially and specifically affected by the proposed facility; or any group consisting of not fewer than 10 residents of the municipality in which the facility is proposed.

“Wind energy facility”, a facility including blades, turbines, towers, supports, foundations and any ancillary facilities such as roadways, transmission or distribution lines, substations, and any other buildings, structures or equipment whose primary purpose is to support the generation and delivery of electricity of at least 2 megawatts powered by wind; provided, however, that wind energy facility shall not include structures or buildings whose primary purpose is unrelated to the generation and delivery of electricity powered by wind.

“Wind energy permitting board”, municipal board appointed under sections 2 and 3 of chapter 40T or if no board has been appointed, the planning board.

Section 69U. The department of public utilities shall establish a division of wind energy facility siting. The chairman of the department of public utilities shall appoint a director of that division who shall be responsible for ensuring that the standards established in section 69V of this chapter are timely issued, and that the procedures for the siting of wind energy facilities established in section 69W result in timely and predictable permitting decisions that uphold the intent of sections 69U through 69X, inclusive.

Section 69V. (a) The energy facilities siting board shall, with the approval of the secretary of the executive office of energy and environmental affairs, promulgate regulations pursuant to chapter 30A

containing standards for the siting, operation, and decommissioning of electric generating plants and ancillary facilities thereto that are: (1) powered by wind energy and (2) have the capacity to generate at least 2 megawatts of electricity. The standards shall be established for wind energy facilities that are sited on land. Facilities are not required to comply with the standards established under section 69V by the energy facilities siting board, but compliant facilities shall be eligible for state agency fast-track permitting under section 69W of this chapter and municipal fast-track permitting under chapter 40T. The siting of offshore wind facilities shall be governed by the integrated ocean management plan established under section 4C of chapter 21A.

(b) The standards for wind energy facilities sited on land shall include, but not be limited to;

(1) lighting;

(2) appropriate setbacks from residences to prevent significant sound and health and safety impacts;

(3) performance standards to avoid impacts, and to the extent impacts cannot be avoided, to minimize and mitigate impacts to scenic or recreational areas of special federal or state significance, regional cultural facilities, historic resources, priority or estimated habitats for plant and animal species listed pursuant to chapter 131A, populations of bird and bat species that are considered by the department of fish and game as being vulnerable to impacts from the operation of wind turbines, large unfragmented habitat blocks, wetland resources or other ecologically sensitive areas subject to protection under federal or state law or as identified by the department of environmental protection, department of conservation and recreation, or the department of fish and game; and

(4) such other factors as the board determines to be relevant to foster the development of wind energy in a manner that avoids, minimizes and mitigates material adverse environmental impact. Mitigation may include, but is not limited to, the preservation, enhancement, restoration or establishment of resources of greater or equal value to those being impacted, as compensation for unavoidable impacts.

The standards shall vary from region to region to take into account material differences in the natural resources, available wind resources or other characteristics of regions; provided, however, that all applicable standards shall be at least as protective as existing state environmental statutes and regulations. The standards shall be based upon best available science, be drafted in consultation with the relevant agencies and the advisory group created by subsection (c), and shall be reviewed and updated as necessary, but not less frequently than once every 5 years.

(c) The energy facilities siting board shall empanel an advisory group to develop recommended standards under the direction of the chairman of the board. The advisory group may utilize the resources and staff of the board, or those of the board's members, who may participate as appropriate. The advisory group shall include the commissioner of the department of conservation and recreation, the chairman of the Massachusetts historical commission, the commissioner of the department of public safety, the commissioner of the department of public health, or the designees of any of the foregoing from their respective staffs. The advisory group shall also include the following individuals to be appointed by the governor: a representative of the wind energy industry; a representative of the electric transmission and distribution industry; 2 representatives from non-profit environmental organizations with experience in wind energy facility siting policy, 1 of whom shall represent a land and water conservation organization; 1 representative of the Berkshire Regional Planning Commission; 1 representative of the Berkshire Natural Resources Council; 1 representative from the Metropolitan Area Planning Council; 1 representative of Southeastern Regional Planning and Economic Development District; 1 representative of the Franklin Regional Council of Governments; 1 representative from the Cape Cod Commission; 1 representative from the Martha's Vineyard Commission; 1 representative from the Nantucket Planning and Economic Development Council; 1 municipal official with experience in wind energy siting drawn from a list of not fewer than 3 candidates prepared by the Massachusetts Municipal Association; provided, however, that the same municipal official may not serve on the wind energy facilities siting board and advisory group; and up to 2 other representatives, appointed by the chairman, as the chairman of the board deems advisable. Prior to submitting the recommended standards to the board, the advisory group shall hold not less than 2 regional public hearings for the purpose of soliciting public comments. Prior to adopting the regulations, the board shall hold a public hearing and follow the additional

procedures set forth in section 2 of chapter 30A.

Section 69W. (a) Notwithstanding any general or special law to the contrary, any person who proposes to construct a wind energy facility with a capacity of at least 2 megawatts may elect to follow the procedures established by this section and sections 69U and 69V of this chapter.

(b) A proposal to develop a wind energy facility that complies with the standards established under section 69V shall be eligible for the fast-track permitting procedures set forth in this section and section 3 of chapter 40T.

(c) After a municipal wind energy board or planning board authorized under section 1 or 2 of chapter 40T files a written decision with the city or town clerk, or constructive approval results pursuant to section 3(f) of chapter 40T, the project applicant may file an application with the energy facilities siting board, together with such supporting materials as are necessary to demonstrate that the facility complies with the standards. The application shall include, in such form and detail as the energy facilities siting board shall from time to time prescribe, the following information: (i) a description of the proposed wind energy generating facility, including any ancillary structures and related facilities; (ii) a description of the project's environmental impacts, both positive and negative; (iii) a statement of whether the project complies with the standards established under section 69V, and if it does not, a listing of the standards for which the project does not comply and an explanation as to why compliance is not practicable; (iv) a complete list of state agency permits that would otherwise be needed for the facility; and (v) any other information requested by the board. The applicant shall simultaneously file a notice of the application with the municipal wind energy permitting board or planning board established under chapter 40T, any state or regional agencies that have permitting authority over the proposed facility, abutters to the site of the facility, and the office of the Massachusetts Environmental Policy Act, which shall publish the notice, as soon as possible, in the Environmental Monitor. Within 45 days of receipt of the application, energy facilities siting board staff shall review the application, notify all relevant permitting agencies, and inform the applicant in writing whether the application is complete. The applicant shall make the full application readily available to all relevant agencies and municipalities, and the energy facilities siting board shall establish a procedure to ensure that the application and supporting materials are available for timely local and statewide public access, including but not limited to, electronically.

(d) Within 2 months of the energy facilities siting board notifying the applicant that the application is complete, a hearing officer of the energy facilities siting board shall take written public comment and hold a non-adjudicatory public hearing to take oral comment on the application. The hearing shall be held in the host community or if no appropriate locations are available in a host community, in the nearest available appropriate location. The hearing officer shall allow at least 45 days from the board's determination that the application is complete for public comments to be submitted. Based on the comments that are submitted, if the hearing officer determines that there are genuine disputes of material fact as to whether the facility meets the standards, the hearing officer shall schedule at least 1 evidentiary hearing for the limited purpose of taking further evidence upon the issues for which there is a genuine dispute of material fact. In any instance in which there is a factual dispute between the applicant and a state agency regarding matters within the state agency's regulatory authority, an evidentiary hearing shall be held as to that dispute at the request of the applicant or the state agency. Evidence may be presented at such hearing by the applicant, the municipality in which the proposed facility is located, state permit granting authorities, and by any interested party; provided, however, that such party submitted comments during the initial public comment period described herein. The evidentiary hearing shall be completed no later than 3 months following the close of the initial public comment period. The evidentiary hearing shall include written or oral testimony under oath, the opportunity for cross-examination and the compilation of a record of admissible evidence, but the hearing officer and the energy facilities siting board shall not be bound by paragraph 7 of section 11 of chapter 30A.

(e) State permit granting agencies shall file written comments with the hearing officer during the initial 2 month public comment period to assist the energy facilities siting board in determining whether the standards have been met, and may include recommended conditions within each agency's regulatory

purview.

(f) Within 2 months of the close of the public hearing or evidentiary hearings if scheduled, the energy facilities siting board shall determine, in writing, whether the proposed facility meets the standards. Notwithstanding the provisions of any other law to the contrary, if the energy facilities siting board finds that the proposed facility meets the standards, it shall approve the facility, and may impose conditions to its approval. Conditions recommended by state environmental agencies with respect to issues within their permitting authority, by state environmental agencies with respect to biological resources identified under section 69V but not within their permitting authority, or conditions recommended by host municipalities or their constituent boards or regional planning agencies with regulatory authority, shall be adopted to the maximum extent practicable, and the energy facilities siting board shall explain the reasons for not including any such conditions in its written decision.

(g) (1) If the energy facilities siting board finds that the facility does not meet the siting standards, it may hold additional hearings to take additional evidence from both the applicant and interested parties, if necessary, and, notwithstanding the provisions of any other law to the contrary, approve the facility and impose conditions to its approval if it finds that:

(A) the facility has complied to the maximum practicable extent with the siting standards established under section 69V;

(B) that the facility has mitigated the impact arising out of the non-compliance with the siting standards; and

(C) the benefits of the facility outweigh the detriments.

(2) To determine whether the benefits outweigh the detriment, the energy facilities siting board shall take into account;

(A) benefits including, but not limited to:

(i) the avoidance or reduction of greenhouse gases and other pollutants;

(ii) energy reliability;

(iii) security and diversification;

(iv) public ownership of the facility or reduction of electric rates to the community that will be affected by the facility; and

(B) detriments including, but not limited to the impact on;

(i) ecologically sensitive areas;

(ii) large unfragmented habitat blocks;

(iii) priority or estimated habitats for all plant and animal species listed under chapter 131A;

(iv) populations of bird and bat species that are considered by the department of fish and game to be vulnerable to impacts from the operation of wind turbines;

(v) historic, cultural or scenic or recreational areas of special federal or state significance;

(vi) noise; and

(vii) public safety.

(3) Notwithstanding any other general or special law to the contrary, if the energy facility siting board finds that the facility meets the standards in this subsection, it may approve the facility, and may impose conditions to its approval.

(4) A decision under this subsection shall be issued no later than 9 months after the energy facilities siting board determines in writing that the application is complete, if no evidentiary hearings are held, or within 12 months after such determination if evidentiary hearings are held.

(5) Conditions recommended by state environmental agencies with respect to issues within their permitting authority under state law, by state environmental agencies with respect to biological resources identified under section 69V but not within their permitting authority under existing state law, or conditions recommended by host municipalities or their constituent boards, shall be adopted to the maximum extent practicable, and the energy facilities siting board shall explain the reasons for not including any such conditions in its written decision.

(h) The construction, maintenance and operation of a facility which receives an approval under this chapter shall conform with such approval and any terms and conditions contained therein.

Notwithstanding the provisions of any other law to the contrary, if the energy facilities siting board issues an approval under this section, no state agency shall require any approval, consent, permit, certificate or condition for the construction, operation or maintenance of the facility with respect to which the approval is issued and no state agency shall impose or enforce any law, ordinance, by-law, rule or regulation nor take any action nor fail to take any action which would delay or prevent the construction, operation or maintenance of such facility; provided, however, that the energy facilities siting board shall not issue an approval the effect of which would be to grant or modify a permit, approval or authorization which, if so granted or modified by the appropriate state agency, would be invalid because of a conflict with applicable federal water, air, historic or threatened and endangered species standards or requirements. The approval, if issued, shall be in the form of a composite of all state individual permits, approvals or authorizations which would otherwise be necessary for the construction and operation of the facility and that portion of the approval which relates to subject matters within the jurisdiction of a state agency shall be enforced by said agency under the other applicable laws of the commonwealth as if it had been directly granted by the agency.

(i) The energy facilities siting board shall combine the review and approval process under this section with any additional review of a local wind energy permitting board decision approving, approving with conditions, or constructively approving an application if such an appeal is brought by a person or entity other than the applicant under subsection 1 of section 3 of chapter 40T. If the energy facilities siting board approves the facility under section (f) or (g), it shall affirm the decision of the wind energy permitting board, but may modify conditions or impose additional conditions upon the approval to address claims brought by the party seeking additional review of the wind energy permitting board decision.

(j) An application filed by a person proposing to construct a wind energy facility that does not comply with the standards shall also be governed by subsection (d) through (g), inclusive, except that:

(1) the hearing officer shall hold a public hearing and close the public comment period within 4 months from the date that the energy facilities siting board determines that the application is complete;

(2) the hearing officer shall hold evidentiary hearings as needed to resolve genuine disputes of material facts within 8 months from the date the energy facilities siting board determines that the application is complete; and

(3) the energy facilities siting board shall issue a decision within 4 months of the close of the public comment period or evidentiary hearing.

(k) The regulations promulgated under section 69V shall include clear and concise application requirements, including but not limited to pre-application survey requirements developed by the energy facilities siting board in consultation with the department of fish and game and the department of environmental protection, and may provide for pre-application consultation and site visits. No application shall be considered complete until surveys, if required, are determined by the department of fish and game or the department of environmental protection to be complete. Sufficient data shall be required from the applicant by these regulations to enable the energy facilities siting board to determine whether the facility meets the standards under section 69V, and if it does not, whether it meets the standards set forth in subsection (g); provided, however, that these regulations shall not require any data related to the necessity or cost of the proposed generating facility, except for data related to the costs or economic feasibility associated with the mitigation, control or reduction of the environmental impacts of the proposed generating facility, so that the energy facilities siting board can make an informed determination as to the ability of the applicant to afford to comply with conditions imposed by an agency, municipality or the state.

(l) The energy facilities siting board shall promulgate regulations governing the procedures for permitting under this section and appeals brought under chapter 40T. The regulations shall also provide for a reasonable fee for wind energy facility applications subject to this section to defray the energy facilities siting board's reasonable costs of processing the application; a fee set under such regulations may be adjusted according to project size or other objective criteria. The regulations shall also ensure that a reasonable portion of the application fee charged shall be allocated to state agencies that would otherwise be issuing permits for the facility in accordance with a fee schedule to be adopted concurrently with the

regulations. The energy facilities siting board may retain said fees for the purpose of reviewing applications to construct wind energy facilities. Any remaining balances of said fees at the end of a fiscal year shall not revert to the General Fund, but instead shall be available to the energy facilities siting board during the following fiscal year for the purposes set forth in sections 69U through 69X, inclusive. Nothing in this section shall change the level or use of siting fees for any other type of facility subject to section 69J ½ of this chapter.

(m) Any interested party aggrieved by a decision of the energy facilities siting board under this section shall have a right to judicial review in the manner provided by section 5 of chapter 25. The scope of such judicial review shall be limited to whether the decision of the energy facilities siting board conforms with the constitutions of the commonwealth and the United States, was made in accordance with the procedures and application of standards established under sections 69V and 69W, and with the rules and regulations of the board with respect to such provisions, was supported by substantial evidence in the record of the board's proceedings and was arbitrary, capricious or an abuse of the board's discretion.

(n) This section shall not be deemed to exempt wind energy facilities from sections 61, and 62A through 62I of chapter 30.

Section 69X: Sections 69V and 69W shall not preclude, or obligate an applicant for a facility from seeking and obtaining board approvals and certificates under sections 69K through 69O ½ in lieu of proceeding under sections 69V and 69W.

SECTION 9A. Section 10 of chapter 25A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 22 and 23, the words, 'or other local governmental body' and inserting in place thereof the following words:- , other local governmental body or other local governmental bodies acting jointly on a regional basis.

SECTION 9B. Said section 10 of said chapter 25A, as so appearing, is hereby further amended by inserting after the word 'municipality', in lines 29, 42 and 43, each time it appears, the following words:- , other local governmental body or other local governmental bodies acting jointly on a regional basis.

SECTION 9C. Said section 10 of said chapter 25A, as so appearing, is hereby further amended by inserting after the word 'locations', in lines 27 and 28, the following words:- within the municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis.

SECTION 10. The energy facilities siting board shall promulgate regulations under section 69V and 69W of chapter 164 of the general laws within 9 months of the effective date of this act.

SECTION 11. No application may be submitted to or reviewed through the streamlined permitting process established in this act until all necessary regulations are promulgated.

SECTION 11A. The department of energy resources shall notify each municipality with significant wind resource areas, as determined by the department, within 30 days of the effective date of this act of the terms and provisions of this act.

SECTION 12. Nothing in this act shall be construed to allow the permitting process contained in chapter 40T or sections 69U to 69X, inclusive, of chapter 164 of the General Laws to apply to land that is under protection pursuant to Article XLIX, as appearing in Article XCVII of the Amendments to the Constitution of the Commonwealth.

AMENDMENT NO. 10

Mr. Peterson of Grafton moves that House bill 4687 be amended by adding the following section:-

SECTION XX. Provided further, that this act shall not take effect in any municipality designated by the Department of Energy Resources as containing significant wind resource areas without a vote to accept such designation by a majority of members of the town council, or in a city having a Plan D or Plan E charter, the city manager and the city council and in any other city the mayor and city council and in towns a majority vote of those present and voting at a town meeting and approval by the board of selectmen.

AMENDMENT NO. 11

Mr. Peterson of Grafton moves that House Bill 4687 be amended by striking lines 155 through 190, inclusive, in subsection (g) of proposed section 18 of chapter 25A; and, further, by striking lines 236 through 241, inclusive, beginning after the words “subsection (g)”, and inserting in place thereof, the following: “.”.

AMENDMENT NO. 12

Mr. Dempsey of Haverhill, Mr. Pedone of Worcester, Mr. Keenan of Salem, Mr. Moran of Boston and Mr. Basile of East Boston move to amend H.4687 in section 9 by striking out the figure “2” and inserting in place thereof the following figure:- “1”.

AMENDMENT NO. 13

Representative Hecht of Watertown moves to amend H4687 in Section 3, line 50 by deleting the words “or state” and inserting in place thereof:- “state, or regional”

AMENDMENT NO. 14

Representative Hecht of Watertown moves to amend H4687 in Section 3, line 132 after the word “agency” by adding the following : -“The evidentiary hearing shall be held in the host community or if no appropriate locations are available in the host community, in the nearest available appropriate location.”

AMENDMENT NO. 15

Representative Hecht of Watertown moves to amend H4687 in Section 3, line 142 by deleting the word “60” and inserting in place thereof: - “45”

AMENDMENT NO. 16

Representative Hecht of Watertown moves to amend H4687 in Section 3, line 148 after the word “approval” by adding the following:- “, provided, however, approval shall not be granted until, after exhaustion of all appeals, a permit is granted by the affected municipality pursuant to Chapter 25D or, if a permit was not sought pursuant to chapter 25D, any other relevant local permitting law or regulation”

AMENDMENT NO. 17

Representative Hecht of Watertown moves to amend H4687 in Section 3, line 160 by inserting after the word “has” the following:- “substantially”; and in line 161 after the word “standards” by adding the following:- “including, but not limited to, preserving, enhancing, restoring, or establishing resources of greater or equal value to those being impacted, as compensation for unavoidable impacts”

AMENDMENT NO. 18

Representative Hecht of Watertown moves to amend H4687 in Section 3, line 184 after the word “approval” by adding the following:- “, provided, however, approval shall not be granted until, after exhaustion of all appeals, a permit is granted by the affected municipality pursuant to Chapter 25D or, if a permit was not sought pursuant to chapter 25D, any other relevant local permitting law or regulation”

AMENDMENT NO. 19

Representative Hecht of Watertown moves to amend H4687 in Section 3, line 188 by inserting after the

word “boards” the following:- “or regional planning agencies with regulatory authority”

AMENDMENT NO. 20

Representative Hecht of Watertown moves to amend H4687 in Section 3, line 212 by deleting the words “modify conditions” and inserting in place thereof:-“strengthen conditions imposed by the wind energy permitting board”

AMENDMENT NO. 21

Representative Hecht of Watertown moves to amend H4687 in Section 4, line 332 by deleting the word “an” and inserting in place thereof:- “any”

AMENDMENT NO. 22

Representative Hecht of Watertown moves to amend H4687 in Section 4, lines 360, 362, and 363 by deleting the word “120” and inserting in place thereof:-“180”

AMENDMENT NO. 23

Representative Hecht of Watertown moves to amend H4687 in Section 4, line 368 by deleting the word “180” and inserting in place thereof:-“240”; in line 370 by deleting the word “120” and inserting in place thereof:-“180”; and in line 372 by deleting the word “180” and inserting in place thereof:-“240”

AMENDMENT NO. 24

Mr. Finegold of Andover moves to amend the bill (House, No. 4687), in section 3, by striking out, in lines 250, 251, and 252, the words “may appeal therefrom to the superior court department of the trial court, pursuant to the provisions of section 14 of chapter 30A. The decision of the superior court or justice shall be final.” and inserting in place thereof “shall have a right to judicial review in the manner provided by section 5 of chapter 25. The scope of such judicial review shall be limited to whether the decision of the division conforms with the constitutions of the commonwealth and the United States, was made in accordance with the procedures and application of standards established under sections 17 and 18, and with the rules and regulations of the division with respect to such provisions, was supported by substantial evidence in the record of the division’s proceedings and was arbitrary, capricious or an abuse of the division’s discretion.”;

In section 4 by inserting, in line 417, after the word “division” the words “and this appeal shall be the exclusive means of review of such decisions of a wind energy permitting board or a regional planning agency.”; in line section 4, by striking out, in lines 419 to 422, inclusive, the words “Any interested party aggrieved by a decision of the division under this section may appeal therefrom to the superior court department of the trial court, pursuant to the provisions of section 14 of chapter 30A. The decision of the superior court or justice shall be final.”;

In section 4, in lines 423 to 426, inclusive, by striking out the paragraph in those lines and inserting in place thereof the following paragraph: “An appeal of a decision of the wind energy permitting board denying a permit or granting a permit with conditions, brought by the applicant or by any other proponent of a wind energy facility shall be filed with superior court or the permit session of the land court under section 3A of chapter 185 within 30 days of the filing of the decision with the city or town clerk and this appeal shall be the exclusive means of review of such decisions of a wind energy permitting board. The court shall hear all evidence pertinent to the authority of the wind energy permitting board and determine the facts, and, upon the facts so determined, annul such decision if found to exceed the authority of the wind energy permitting board or make such other decree as justice and equity may require. An appeal brought by the applicant or by any other proponent of a wind energy facility of a decision of a regional planning agency denying a permit or granting a permit with conditions shall be governed by the enabling statute of the applicable regional planning agency and this appeal shall be the exclusive means of review

of such decisions of a regional planning agency.”

AMENDMENT NO. 25

Mr. Guyer or Dalton moves to amend H4687 by inserting after Section 14 the following section:-

SECTION 15. Chapter 535 of the Acts of 2008 is hereby repealed.

AMENDMENT NO. 26

Mr. Guyer of Dalton moves to amend H4687 in Section 4, by striking subsection 4(f) in its entirety and inserting in the place thereof the following subsection:-

(f). No permit may be issued, and no project approved, by the wind energy permitting board without a vote of approval for the project by residents through a ballot question at the next regularly scheduled municipal election in the community where the project will be located, provided however, that if no municipal election is scheduled within 365 days from the date the application has been filed, the community shall hold a special municipal election. The wind energy permitting board shall file with the clerk of the local governmental body a written decision, based upon a majority vote of the board, within 180 days from the date of the municipal election where the ballot question was taken, unless the time period is extended by mutual agreement by the board and the applicant, and the agreement is filed with the city or town clerk prior to the expiration of the 180 day period. Failure to file a written decision or extension within the 180 day period shall result in a constructive approval of the application, provided the project was approved in the above manner by ballot question. unless a municipal board has made a timely referral of an application to a regional planning agency pursuant to subsection (l).

AMENDMENT NO. 27

Mr. Guyer of Dalton moves to amend H4687 in Section 4, subsection 4(f) by striking any where the figure “120” appears and inserting in the place thereof the following:- 180

AMENDMENT NO. 28

Representative Guyer of Dalton moves to amend H4687 in Section 3, subsection 18(c), by inserting after the word “written decision” the following:- of approval

AMENDMENT NO. 29

Representative Guyer of Dalton moves to amend the H4687 by adding after Section 14 the following section:-

SECTION XX. Any real estate broker or agent licensed in the Commonwealth representing a seller of real property located in an area designated by the Department of Energy resources as a “significant wind resource area” shall cause the following language to be included in any Offer or Purchase and Sale Agreement entered into by said broker, agent, or seller:

“NOTICE TO BUYER: The subject property is located in an area designated by the Massachusetts Department of Energy Resources as a “significant wind resource area”. This means that a wind energy facility could be allowed in that area. A wind energy facility is defined by law as “a facility including blades, turbines, towers, test towers, supports, foundations and any ancillary facilities such as roadways, transmission or distribution lines, substations, and any other buildings, structures, or equipment whose primary purpose is to support the generation, transmission, and delivery of at least two megawatts of electricity powered by wind.” This law states that “Any existing zoning and non-zoning requirements of the municipalities of the municipality’s local laws, regulation, policies, or other regulatory requirements

may be waived” to allow such a facility.

AMENDMENT NO. 30

Representative Guyer of Dalton moves to amend H4687 by adding after Section 14 the following section:-

SECTION 15. Notwithstanding any general or special law to the contrary, Chapter 132A of the General Laws, as appearing in the 2008 Official Edition is hereby amended by inserting after Section 18 the following section:-

Section 19. Any lands or easements taken or acquired for natural resource purposes under Article XCVII of the amendments of the Constitution, shall be subject to a moratorium prohibiting industrial development, including energy, on said lands, for a period of twenty-five years after any disposition or change of use.

AMENDMENT NO. 31

Representatives Sannicandro of Ashland and Richardson of Framingham move to amend the bill by striking out Section 4.

AMENDMENT NO. 32

Mr. Fernandes of Milford moves to amend House 4687 in SECTION 3, in lines 38 and 39, by striking out the words “a municipal board appointed under section 3 of chapter 25D or if no board has been appointed.”; and in Chapter 25D, in Section 1, in lines 298 and 299, by striking out the words “a municipal board appointed under section 3 or if no board has been appointed”.

AMENDMENT NO. 33

Mr. Fernandes of Milford moves to amend House 4687 in Chapter 25D, in Section 3, in lines 308 to 321, inclusive, by striking out lines 308 to 321, inclusive, and inserting in place thereof the following:-
“Within a local government body designated as a significant wind resource area pursuant to section 2, the planning board shall serve as the wind energy permitting board.

AMENDMENT NO. 34

Mr. Finegold of Andover moves to amend the bill (House, No. 4687) by inserting in section 3, in line 191, by inserting, at the beginning of the first sentence, the words “Notwithstanding the provisions of any other law to the contrary,”; and in section 3, in lines 225, 226, and 227 by striking out the paragraph in those lines and inserting in place thereof the following paragraph: “(k) Approval by the division pursuant to this section shall not authorize the applicant to commence construction unless and until the applicant obtains a building permit.”

AMENDMENT NO. 35

Mr. Fernandes of Milford moves to amend House 4687 in Chapter 25D, in Section 4, in subsection (e), in line 357, by adding after the word “zoning” the following: “ dimensional requirements”; and in line 358, by adding after the word “requirements” the following: “The board shall specifically not be the authority to waive zoning use requirements.”

AMENDMENT NO. 36

Mr. Straus of Mattapoisett moves to amend H 4687 by striking Sections 9 and 10 and inserting in place thereof:

SECTION 9. Notwithstanding any general or special law to the contrary, Section 139 (g) of Chapter 164 of the General Laws shall be amended by striking the word "section" at the end thereof and inserting in its place thereof and inserting in its place the following:

" section, including but not limited to rules governing the queuing of applications for net metering

service. Said rules and regulations shall include but not be limited to exempting any applications properly filed notwithstanding the limitations on net metering as described in subsection (f) of this section.”

AMENDMENT NO. 37

Mr. Madden of Nantucket moves to amend the H4687 in Section 3(e) by striking the following words in line 357; - “zoning and.”

AMENDMENT NO. 38

Mr. Madden of Nantucket moves to amend the H4687 in Section 3(e) by striking the following words in line 357; - “zoning and.”

AMENDMENT NO. 39

Ms. Provost of Somerville moves to amendment H.4687 by striking all language following the enacting clause and inserting thereof the following:

SECTION 1.This act shall be construed in a manner to achieve its public purposes, which are to encourage the development of clean, renewable, electric generating plants and ancillary facilities powered by wind, ensure that such facilities are sited in appropriate locations based on clear, predictable and protective environmental, cultural and historic resource standards and streamline the permitting of such facilities at the state and local level and reduce delays associated with appeals of such permits.

SECTION 2. Section 10 of chapter 25A of the General Laws, as amended by section 22 of chapter 169 of the Acts of 2008, is hereby amended by adding the following subsection:-

(g) The department shall have a full-time employee who shall work within the division and collaborate with regional planning authorities to provide technical assistance to municipalities with respect to the siting of wind energy facilities.

SECTION 5. The General Laws are hereby amended by inserting after Chapter 40S the following chapter:-

Chapter 40T: Wind Energy Permitting

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise have the following meanings:-

“Facility”, a wind energy facility.

“Local boards”, boards, commissions, officials or other municipal agencies or authorities who would otherwise have jurisdiction over any portion or all of the siting of a proposed facility.

“Interested Party”, an abutter; abutting municipality; a lawfully established trust, corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust or any other legal entity organized for profit or charitable purposes who is substantially and specifically affected by a proposed facility; or any group consisting of not fewer than 10 residents of the municipality in which the facility is proposed.

“Regional planning agency”, a regional planning district established pursuant to chapter 40B, the cape cod commission established pursuant to section 18 of chapter 716 of the acts of 1989 as amended or the martha’s vineyard commission established pursuant to chapter 831 of the acts of 1977, within such district or commission area or any other regional planning district hereafter established by the general

court.

“Wind energy facility”, a facility including blades, turbines, towers, supports, foundations and any ancillary facilities such as roadways, transmission or distribution lines, substations and any other buildings, structures or equipment whose primary purpose is to support the generation and delivery of electricity of at least 2 megawatts powered by wind; provided, however, that wind energy facility shall not include structures or buildings whose primary purpose is unrelated to the generation and delivery of electricity powered by wind.

“Wind energy permitting board”, municipal board appointed under section 3 or if no board has been appointed, the planning board in the city or town of the proposed facility.

Section 2. The department of energy resources, in consultation with the Massachusetts Municipal Association and applicable regional planning agencies, shall determine which municipalities in the commonwealth contain significant wind resource areas; provided, however, that the department shall promulgate through regulation criteria for such determination; provided, further, that prior to a final determination, the department shall hold at least 1 public hearing in the region containing the relevant municipality and offer a period for public comment. A municipality with significant wind resource areas shall establish a wind energy permitting board to conduct local permitting of a wind energy facility, within 30 days of receipt of a letter of intent from an applicant seeking to file an application under this chapter. In all other municipalities, the municipality may establish a wind energy permitting board.

Section 3. In the case of towns, the board of selectmen, and in the case of cities, the mayor, shall establish and appoint the wind energy permitting board, to be composed of either 3 or 5 members, at the discretion of the board of selectmen or mayor. A 3 member board shall consist of 1 representative from the conservation commission, 1 member from the zoning board of appeals, and 1 member from the planning board. A 5 member board shall consist of 2 members of the conservation commission, 1 member from the zoning board of appeals and 2 members from the planning board. The board of selectmen or mayor shall appoint 1 member of the board to be the chairman. If the board of selectmen or mayor determines that it is infeasible to establish a wind energy permitting board, the planning board shall serve as the wind energy permitting board. In such instances, the planning board shall take actions to maximize the opportunity for input from other municipal boards, and shall at a minimum ensure that the conservation commission and zoning board of appeals are provided with copies of the application and notices of all public hearings relating to the application.

Section 4. (a) A person who proposes to construct a wind energy facility with a capacity of at least 2 megawatts may elect to follow the procedure established by this chapter.

(b) A proposal to develop a wind energy facility that complies with the standards established under section 69V of chapter 164 shall be eligible for the fast-track permitting set forth in this section and section 69W of chapter 164.

(c) The project proponent shall file an application with the wind energy permitting board and the town or city clerk in lieu of separate applications to the local boards. The proponent shall also file the application with the town or city clerk of any abutting municipality. The application shall identify all provisions of local laws or regulations from which a waiver is sought. Within 30 days of receipt, the chairman of the wind energy permitting board, or the chairman's designee, shall determine whether the application is complete and inform the proponent of that decision. If the application is incomplete, the proponent shall be allowed 30 days or such longer time as may be mutually agreed upon to complete the application. After the expiration of this period, the proponent may elect to go forward with the information provided, and the procedures and timelines in this section shall apply.

(d) The wind energy permitting board shall immediately notify each such local board, as applicable, of the filing of such application by sending a copy thereof to such local boards for their recommendations and shall, within 60 days of the board's determination that an application is complete or the expiration of the

additional information period described in subsection (c), and in compliance with the notice and publication provisions of section 11 of chapter 40A, hold a public hearing and a written public comment period of not less than 45 days on the application. The wind energy permitting board shall request the recommendations of the local boards as are deemed necessary or helpful in making its decision upon such application and shall have the same power to issue a permit or other approval as any local board or official who would otherwise act with respect to such application, including, but not limited, to the power to attach conditions to said permit or approval as are consistent with this section and all other laws and regulations.

(e) The wind energy permitting board, in making its decision on the application, shall apply all applicable local by-laws and ordinances, including any by-laws regulating construction in and around, and the disturbance of, wetlands and other environmentally sensitive areas, and shall take into consideration the recommendations of the local boards and shall have the authority to assess fees to retain consultants under section 53G of chapter 44. The board shall have the authority to waive zoning and nonzoning requirements of the municipality's local laws, regulations, policies or other regulatory requirements.

(f) The wind energy permitting board shall file with the city or town clerk a written decision, based upon a majority vote of the board, within 120 days from the filing of the application, unless the time period is extended by mutual agreement by the board and the applicant, and the agreement is filed with the city or town clerk prior to the expiration of the 120 day period. Failure to file a written decision or extension within the 120 day period shall result in a constructive approval of the application, unless a municipal board has made a timely referral of an application to a regional planning agency.

(g) A wind energy facility that does not comply with the standards established under section 69V of chapter 164 shall be governed by subsections (a) through (f) of this section, except that the deadline for a decision shall be 180 days. If the applicant states that the project complies with the standards, but the wind energy permitting board determines through a vote or interim written decision within the 120 day period that the application does not comply with the standards, the deadline for decision shall be extended so that the deadline is 180 days from the filing of the application unless a municipal board has made a timely referral of an application to a regional planning agency.

(h) The wind energy permitting board is authorized to assess a community mitigation fee upon the applicant, which shall not exceed a cap established by the department of energy resources through regulations. The cap shall be set so as to ensure that community mitigation fees do not render the project economically non-viable.

(i) The applicant must offer the host municipality or its designee the option of entering into a legally enforceable purchase and sale agreement for not more than 10 per cent of the electricity generated on site for use by the host municipality or its designee; provided, however, that the wind energy permitting board may accept other forms of mitigation in lieu thereof, including, but not limited to, a purchase and sale agreement for electricity between the applicant and a municipality, a county, a regional planning agency or other regional governmental entity, a municipal electric cooperative or a municipal aggregator of energy. The host municipality is also authorized to enter into legally enforceable agreements with the applicant for additional mitigation measures.

(j) Notwithstanding any general or special law to the contrary, a municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis whose applications have been approved by a host municipality's wind energy permitting board under this chapter, in which the wind energy permitting board has issued an approval under this chapter shall be deemed to have met the green community eligibility requirements set forth in subsections (2) and (3) of section 10(c) of chapter 25A, and if the municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis seeks a waiver of any of the other eligibility requirements under section 10(c) of chapter 25A, shall be entitled to a finding that the municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis has committed to alternative measures that advance the purposes of the green communities program as effectively as adherence to the requirements.

(k) If a project proponent proposes a single wind energy facility in more than 1 municipality, the wind energy permitting boards, or planning boards, if applicable, may hold joint hearings in 1 or more

municipalities.

(l) In areas where regional planning agencies have regulatory authority, a local wind energy permitting board or planning board shall refer an application to the regional planning agency in accordance with the special act establishing the regional planning agency. Notwithstanding any general or special law to the contrary, prior to the regional planning agency's final determination on the application, the local wind energy permitting board may review and hold public hearings and meetings on the application; provided, however, that no final determination shall be made until the regional planning agency has issued an approval or approval with conditions. Notwithstanding any general or special law to the contrary, in areas where regional planning agencies have regulatory authority, a wind energy permitting board and regional planning agency may hold joint hearings concerning a proposed facility so that both boards may review a project simultaneously. A wind energy permitting board shall file its written decision with the city or town clerk within 60 days of the date on which a regional planning agency issues its final decision of approval or approval with conditions. Failure of the wind energy permitting board to file a written decision or an agreed upon extension within the 60 day period shall result in a constructive approval of the application by the wind energy permitting board. If a regional planning agency denies a development of regional impact permit to a proposed wind energy facility, the wind energy permitting board shall not issue any permits for such a facility and no constructive approval shall result.

(m) (i) An interested party who is substantially and specifically aggrieved by a decision of the wind energy permitting board or a regional planning agency granting a permit or permit with conditions to the applicant, or constructively approving such a permit may appeal the decision to the energy facilities siting board and this appeal shall be the exclusive means of review of such decisions of a wind energy permitting board or a regional planning agency. The appeal shall be filed with the energy facilities siting board no later than 30 days after the wind energy permitting board's decision is filed with the city or town clerk or rendered by a regional planning agency, and shall be governed by section 69W of chapter 164.

(ii) An appeal of a decision of the wind energy permitting board denying a permit or granting a permit with conditions, brought by the applicant or by any other proponent of a wind energy facility shall be filed with superior court or the permit session of the land court under section 3A of chapter 185 within 30 days of the filing of the decision with the city or town clerk and this appeal shall be the exclusive means of review of such decisions of a wind energy permitting board. The court shall hear all evidence pertinent to the authority of the wind energy permitting board and determine the facts, and, upon the facts so determined, annul such decision if found to exceed the authority of the wind energy permitting board or make such other decree as justice and equity may require. An appeal brought by the applicant or by any other proponent of a wind energy facility of a decision of a regional planning agency denying a permit or granting a permit with conditions shall be governed by the enabling statute of the applicable regional planning agency and this appeal shall be the exclusive means of review of such decisions of a regional planning agency.

SECTION 6. Section 69H of chapter 164 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the words "the commissioner of the department of environmental protection" the following words:- , the commissioner of the department of fish and game.

SECTION 7. Said section 69H of said chapter 164, as so appearing, is hereby further amended in line 20 by striking out the figure "3" and inserting in place thereof the following figure:- 4.

SECTION 8. Said section 69H of said chapter 164, as so appearing, is hereby further amended by inserting after the words "labor issues" the following words:- , 1 of whom shall be a municipal official with experience in land use planning.

SECTION 9. Chapter 164 of the General Laws, as so appearing, is hereby amended by inserting after section 69S the following 5 sections:-

Section 69T. As used in section 69 U to 69 X, inclusive, the following words and terms shall, unless the context clearly requires otherwise have the following meanings:—

“Facility”, a wind energy facility.

“Interested Party”, an abutter; abutting municipality; lawfully established trust, corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust or any other legal entity organized for profit or charitable purposes which is substantially and specifically affected by the proposed facility; or any group consisting of not fewer than 10 residents of the municipality in which the facility is proposed.

“Wind energy facility”, a facility including blades, turbines, towers, supports, foundations and any ancillary facilities such as roadways, transmission or distribution lines, substations, and any other buildings, structures or equipment whose primary purpose is to support the generation and delivery of electricity of at least 2 megawatts powered by wind; provided, however, that wind energy facility shall not include structures or buildings whose primary purpose is unrelated to the generation and delivery of electricity powered by wind.

“Wind energy permitting board”, municipal board appointed under sections 2 and 3 of chapter 40T or if no board has been appointed, the planning board.

Section 69U. The department of public utilities shall establish a division of wind energy facility siting. The chairman of the department of public utilities shall appoint a director of that division who shall be responsible for ensuring that the standards established in section 69V of this chapter are timely issued, and that the procedures for the siting of wind energy facilities established in section 69W result in timely and predictable permitting decisions that uphold the intent of sections 69U through 69X, inclusive.

Section 69V. (a) The energy facilities siting board shall, with the approval of the secretary of the executive office of energy and environmental affairs, promulgate regulations pursuant to chapter 30A containing standards for the siting, operation, and decommissioning of electric generating plants and ancillary facilities thereto that are: (1) powered by wind energy and (2) have the capacity to generate at least 2 megawatts of electricity. The standards shall be established for wind energy facilities that are sited on land. Facilities are not required to comply with the standards established under section 69V by the energy facilities siting board, but compliant facilities shall be eligible for state agency fast-track permitting under section 69W of this chapter and municipal fast-track permitting under chapter 40T. The siting of offshore wind facilities shall be governed by the integrated ocean management plan established under section 4C of chapter 21A.

(b) The standards for wind energy facilities sited on land shall include, but not be limited to;

(1) lighting;

(2) appropriate setbacks from residences to prevent significant sound and health and safety impacts;

(3) performance standards to avoid impacts, and to the extent impacts cannot be avoided, to minimize and mitigate impacts to scenic or recreational areas of special federal or state significance, regional cultural facilities, historic resources, priority or estimated habitats for plant and animal species listed pursuant to chapter 131A, populations of bird and bat species that are considered by the department of fish and game as being vulnerable to impacts from the operation of wind turbines, large unfragmented habitat blocks, wetland resources or other ecologically sensitive areas subject to protection under federal or state law or as identified by the department of environmental protection, department of conservation and recreation, or the department of fish and game; and

(4) such other factors as the board determines to be relevant to foster the development of wind energy in a manner that avoids, minimizes and mitigates material adverse environmental impact. Mitigation may include, but is not limited to, the preservation, enhancement, restoration or establishment of resources of

greater or equal value to those being impacted, as compensation for unavoidable impacts.

The standards shall vary from region to region to take into account material differences in the natural resources, available wind resources or other characteristics of regions; provided, however, that all applicable standards shall be at least as protective as existing state environmental statutes and regulations. The standards shall be based upon best available science, be drafted in consultation with the relevant agencies and the advisory group created by subsection (c), and shall be reviewed and updated as necessary, but not less frequently than once every 5 years.

(c) The energy facilities siting board shall empanel an advisory group to develop recommended standards under the direction of the chairman of the board. The advisory group may utilize the resources and staff of the board, or those of the board's members, who may participate as appropriate. The advisory group shall include the commissioner of the department of conservation and recreation, the chairman of the Massachusetts historical commission, the commissioner of the department of public safety, the commissioner of the department of public health, or the designees of any of the foregoing from their respective staffs. The advisory group shall also include the following individuals to be appointed by the governor: a representative of the wind energy industry; a representative of the electric transmission and distribution industry; 2 representatives from non-profit environmental organizations with experience in wind energy facility siting policy, 1 of whom shall represent a land and water conservation organization; 1 representative of the Berkshire Regional Planning Commission; 1 representative of the Berkshire Natural Resources Council; 1 representative from the Metropolitan Area Planning Council; 1 representative of Southeastern Regional Planning and Economic Development District; 1 representative of the Franklin Regional Council of Governments; 1 representative from the Cape Cod Commission; 1 representative from the Martha's Vineyard Commission; 1 representative from the Nantucket Planning and Economic Development Council; 1 municipal official with experience in wind energy siting drawn from a list of not fewer than 3 candidates prepared by the Massachusetts Municipal Association; provided, however, that the same municipal official may not serve on the wind energy facilities siting board and advisory group; and up to 2 other representatives, appointed by the chairman, as the chairman of the board deems advisable. Prior to submitting the recommended standards to the board, the advisory group shall hold not less than 2 regional public hearings for the purpose of soliciting public comments. Prior to adopting the regulations, the board shall hold a public hearing and follow the additional procedures set forth in section 2 of chapter 30A.

Section 69W. (a) Notwithstanding any general or special law to the contrary, any person who proposes to construct a wind energy facility with a capacity of at least 2 megawatts may elect to follow the procedures established by this section and sections 69U and 69V of this chapter.

(b) A proposal to develop a wind energy facility that complies with the standards established under section 69V shall be eligible for the fast-track permitting procedures set forth in this section and section 3 of chapter 40T.

(c) After a municipal wind energy board or planning board authorized under section 1 or 2 of chapter 40T files a written decision with the city or town clerk, or constructive approval results pursuant to section 3(f) of chapter 40T, the project applicant may file an application with the energy facilities siting board, together with such supporting materials as are necessary to demonstrate that the facility complies with the standards. The application shall include, in such form and detail as the energy facilities siting board shall from time to time prescribe, the following information: (i) a description of the proposed wind energy generating facility, including any ancillary structures and related facilities; (ii) a description of the project's environmental impacts, both positive and negative; (iii) a statement of whether the project complies with the standards established under section 69V, and if it does not, a listing of the standards for which the project does not comply and an explanation as to why compliance is not practicable; (iv) a complete list of state agency permits that would otherwise be needed for the facility; and (v) any other information requested by the board. The applicant shall simultaneously file a notice of the application with the municipal wind energy permitting board or planning board established under chapter 40T, any state or regional agencies that have permitting authority over the proposed facility, abutters to the site of

the facility, and the office of the Massachusetts Environmental Policy Act, which shall publish the notice, as soon as possible, in the Environmental Monitor. Within 45 days of receipt of the application, energy facilities siting board staff shall review the application, notify all relevant permitting agencies, and inform the applicant in writing whether the application is complete. The applicant shall make the full application readily available to all relevant agencies and municipalities, and the energy facilities siting board shall establish a procedure to ensure that the application and supporting materials are available for timely local and statewide public access, including but not limited to, electronically.

(d) Within 2 months of the energy facilities siting board notifying the applicant that the application is complete, a hearing officer of the energy facilities siting board shall take written public comment and hold a non-adjudicatory public hearing to take oral comment on the application. The hearing shall be held in the host community or if no appropriate locations are available in a host community, in the nearest available appropriate location. The hearing officer shall allow at least 45 days from the board's determination that the application is complete for public comments to be submitted. Based on the comments that are submitted, if the hearing officer determines that there are genuine disputes of material fact as to whether the facility meets the standards, the hearing officer shall schedule at least 1 evidentiary hearing for the limited purpose of taking further evidence upon the issues for which there is a genuine dispute of material fact. In any instance in which there is a factual dispute between the applicant and a state agency regarding matters within the state agency's regulatory authority, an evidentiary hearing shall be held as to that dispute at the request of the applicant or the state agency. Evidence may be presented at such hearing by the applicant, the municipality in which the proposed facility is located, state permit granting authorities, and by any interested party; provided, however, that such party submitted comments during the initial public comment period described herein. The evidentiary hearing shall be completed no later than 3 months following the close of the initial public comment period. The evidentiary hearing shall include written or oral testimony under oath, the opportunity for cross-examination and the compilation of a record of admissible evidence, but the hearing officer and the energy facilities siting board shall not be bound by paragraph 7 of section 11 of chapter 30A.

(e) State permit granting agencies shall file written comments with the hearing officer during the initial 2 month public comment period to assist the energy facilities siting board in determining whether the standards have been met, and may include recommended conditions within each agency's regulatory purview.

(f) Within 2 months of the close of the public hearing or evidentiary hearings if scheduled, the energy facilities siting board shall determine, in writing, whether the proposed facility meets the standards. Notwithstanding the provisions of any other law to the contrary, if the energy facilities siting board finds that the proposed facility meets the standards, it shall approve the facility, and may impose conditions to its approval. Conditions recommended by state environmental agencies with respect to issues within their permitting authority, by state environmental agencies with respect to biological resources identified under section 69V but not within their permitting authority, or conditions recommended by host municipalities or their constituent boards or regional planning agencies with regulatory authority, shall be adopted to the maximum extent practicable, and the energy facilities siting board shall explain the reasons for not including any such conditions in its written decision.

(g) (1) If the energy facilities siting board finds that the facility does not meet the siting standards, it may hold additional hearings to take additional evidence from both the applicant and interested parties, if necessary, and, notwithstanding the provisions of any other law to the contrary, approve the facility and impose conditions to its approval if it finds that:

(A) the facility has complied to the maximum practicable extent with the siting standards established under section 69V;

(B) that the facility has mitigated the impact arising out of the non-compliance with the siting standards; and

(C) the benefits of the facility outweigh the detriments.

(2) To determine whether the benefits outweigh the detriment, the energy facilities siting board shall take into account;

(A) benefits including, but not limited to:

- (i) the avoidance or reduction of greenhouse gases and other pollutants;
- (ii) energy reliability;
- (iii) security and diversification;
- (iv) public ownership of the facility or reduction of electric rates to the community that will be affected by the facility; and

(B) detriments including, but not limited to the impact on;

- (i) ecologically sensitive areas;
- (ii) large unfragmented habitat blocks;
- (iii) priority or estimated habitats for all plant and animal species listed under chapter 131A;
- (iv) populations of bird and bat species that are considered by the department of fish and game to be vulnerable to impacts from the operation of wind turbines;
- (v) historic, cultural or scenic or recreational areas of special federal or state significance;
- (vi) noise; and
- (vii) public safety.

(3) Notwithstanding any other general or special law to the contrary, if the energy facility siting board finds that the facility meets the standards in this subsection, it may approve the facility, and may impose conditions to its approval.

(4) A decision under this subsection shall be issued no later than 9 months after the energy facilities siting board determines in writing that the application is complete, if no evidentiary hearings are held, or within 12 months after such determination if evidentiary hearings are held.

(5) Conditions recommended by state environmental agencies with respect to issues within their permitting authority under state law, by state environmental agencies with respect to biological resources identified under section 69V but not within their permitting authority under existing state law, or conditions recommended by host municipalities or their constituent boards, shall be adopted to the maximum extent practicable, and the energy facilities siting board shall explain the reasons for not including any such conditions in its written decision.

(h) The construction, maintenance and operation of a facility which receives an approval under this chapter shall conform with such approval and any terms and conditions contained therein.

Notwithstanding the provisions of any other law to the contrary, if the energy facilities siting board issues an approval under this section, no state agency shall require any approval, consent, permit, certificate or condition for the construction, operation or maintenance of the facility with respect to which the approval is issued and no state agency shall impose or enforce any law, ordinance, by-law, rule or regulation nor take any action nor fail to take any action which would delay or prevent the construction, operation or maintenance of such facility; provided, however, that the energy facilities siting board shall not issue an approval the effect of which would be to grant or modify a permit, approval or authorization which, if so granted or modified by the appropriate state agency, would be invalid because of a conflict with applicable federal water, air, historic or threatened and endangered species standards or requirements. The approval, if issued, shall be in the form of a composite of all state individual permits, approvals or authorizations which would otherwise be necessary for the construction and operation of the facility and that portion of the approval which relates to subject matters within the jurisdiction of a state agency shall be enforced by said agency under the other applicable laws of the commonwealth as if it had been directly granted by the agency.

(i) The energy facilities siting board shall combine the review and approval process under this section with any additional review of a local wind energy permitting board decision approving, approving with conditions, or constructively approving an application if such an appeal is brought by a person or entity other than the applicant under subsection 1 of section 3 of chapter 40T. If the energy facilities siting board approves the facility under section (f) or (g), it shall affirm the decision of the wind energy permitting board, but may modify conditions or impose additional conditions upon the approval to address claims brought by the party seeking additional review of the wind energy permitting board decision.

(j) An application filed by a person proposing to construct a wind energy facility that does not comply

with the standards shall also be governed by subsection (d) through (g), inclusive, except that:

(1) the hearing officer shall hold a public hearing and close the public comment period within 4 months from the date that the energy facilities siting board determines that the application is complete;

(2) the hearing officer shall hold evidentiary hearings as needed to resolve genuine disputes of material facts within 8 months from the date the energy facilities siting board determines that the application is complete; and

(3) the energy facilities siting board shall issue a decision within 4 months of the close of the public comment period or evidentiary hearing.

(k) The regulations promulgated under section 69V shall include clear and concise application requirements, including but not limited to pre-application survey requirements developed by the energy facilities siting board in consultation with the department of fish and game and the department of environmental protection, and may provide for pre-application consultation and site visits. No application shall be considered complete until surveys, if required, are determined by the department of fish and game or the department of environmental protection to be complete. Sufficient data shall be required from the applicant by these regulations to enable the energy facilities siting board to determine whether the facility meets the standards under section 69V, and if it does not, whether it meets the standards set forth in subsection (g); provided, however, that these regulations shall not require any data related to the necessity or cost of the proposed generating facility, except for data related to the costs or economic feasibility associated with the mitigation, control or reduction of the environmental impacts of the proposed generating facility, so that the energy facilities siting board can make an informed determination as to the ability of the applicant to afford to comply with conditions imposed by an agency, municipality or the state.

(l) The energy facilities siting board shall promulgate regulations governing the procedures for permitting under this section and appeals brought under chapter 40T. The regulations shall also provide for a reasonable fee for wind energy facility applications subject to this section to defray the energy facilities siting board's reasonable costs of processing the application; a fee set under such regulations may be adjusted according to project size or other objective criteria. The regulations shall also ensure that a reasonable portion of the application fee charged shall be allocated to state agencies that would otherwise be issuing permits for the facility in accordance with a fee schedule to be adopted concurrently with the regulations. The energy facilities siting board may retain said fees for the purpose of reviewing applications to construct wind energy facilities. Any remaining balances of said fees at the end of a fiscal year shall not revert to the General Fund, but instead shall be available to the energy facilities siting board during the following fiscal year for the purposes set forth in sections 69U through 69X, inclusive. Nothing in this section shall change the level or use of siting fees for any other type of facility subject to section 69J ½ of this chapter.

(m) Any interested party aggrieved by a decision of the energy facilities siting board under this section shall have a right to judicial review in the manner provided by section 5 of chapter 25. The scope of such judicial review shall be limited to whether the decision of the energy facilities siting board conforms with the constitutions of the commonwealth and the United States, was made in accordance with the procedures and application of standards established under sections 69V and 69W, and with the rules and regulations of the board with respect to such provisions, was supported by substantial evidence in the record of the board's proceedings and was arbitrary, capricious or an abuse of the board's discretion.

(n) This section shall not be deemed to exempt wind energy facilities from sections 61, and 62A through 62I of chapter 30.

Section 69X: Sections 69V and 69W shall not preclude, or obligate an applicant for a facility from seeking and obtaining board approvals and certificates under sections 69K through 69O ½ in lieu of proceeding under sections 69V and 69W.

SECTION 9A. Section 10 of chapter 25A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 22 and 23, the words, 'or other local governmental body' and

inserting in place thereof the following words:- , other local governmental body or other local governmental bodies acting jointly on a regional basis.

SECTION 9B. Said section 10 of said chapter 25A, as so appearing, is hereby further amended by inserting after the word 'municipality', in lines 29, 42 and 43, each time it appears, the following words:- , other local governmental body or other local governmental bodies acting jointly on a regional basis.

SECTION 9C. Said section 10 of said chapter 25A, as so appearing, is hereby further amended by inserting after the word 'locations', in lines 27 and 28, the following words:- within the municipality, other local governmental body or other local governmental bodies acting jointly on a regional basis.

SECTION 10. The energy facilities siting board shall promulgate regulations under section 69V and 69W of chapter 164 of the general laws within 9 months of the effective date of this act.

SECTION 11. No application may be submitted to or reviewed through the streamlined permitting process established in this act until all necessary regulations are promulgated.

SECTION 11A. The department of energy resources shall notify each municipality with significant wind resource areas, as determined by the department, within 30 days of the effective date of this act of the terms and provisions of this act.

SECTION 12. Nothing in this act shall be construed to allow the permitting process contained in chapter 40T or sections 69U to 69X, inclusive, of chapter 164 of the General Laws to apply to land that is under protection pursuant to Article XLIX, as appearing in Article XCVII of the Amendments to the Constitution of the Commonwealth.

AMENDMENT NO. 40

Mr. Fernandes of Milford moves to amend House 4687, in lines 251, 252, 420, 422, 425, 426, by striking out the word "superior" and inserting in place thereof the word "land".

AMENDMENT NO. 41

Mr. Donelan of Orange, Mr. Kocot of Northampton, and Ms. Story of Amherst move to amend H. 4687 by adding the following section:

SECTION XX. Notwithstanding any general or special law or rule or regulation to the contrary, the wind energy center at the University of Massachusetts at Amherst shall be the principle technical advisor on wind energy to the various agencies and departments of the Commonwealth, including but not limited to the executive office of energy and environmental affairs, the department of energy resources, the center for clean energy, the energy facilities siting board, and the wind turbine test facility. Services provided by said wind energy center shall include, but not be limited to, technical and financial analysis of wind energy technologies and projects, research, education, and recommendations to the legislative and executive branches on all aspects of wind energy policy and development. The secretary of the executive office of energy and environmental affairs shall provide annually to the wind energy center from the funds of the clean energy center an amount not less than ninety percent of the funds provided from the Commonwealth to the wind energy center (formerly called the renewable energy research laboratory) in fiscal year 2008. Said funding shall not preclude the wind energy center from applying for and receiving additional funding from state, federal, and private sources.

AMENDMENT NO. 42

Mr. Scaccia moves to amend Section 12 of SB 2260 by adding the following sentence in Line 453 at the end of Section 12:

The permitting process contained in chapter 40T or sections 69U to 69X, inclusive, of chapter 164 of the General Laws shall not apply to projects that will have an adverse affect on properties that are listed or eligible for listing in the National or State Registers of Historic Places.

AMENDMENT NO. 43

Mr. Madden of Nantucket moved to amend H4687, by inserting after Section 14 the following new section:-

“Section 15. Any local government body that has zoned for renewable energy shall be exempt from this act.”